

### **REMARKS/ARGUMENTS**

The Examiner is thanked for the Office Action mailed March 4, 2010 and again for the Interviews granted May 25, 2010, and May 27, 2010. The status of the application is as follows:

- The Specification has been amended;
- Claims 1-20 are pending and claims 1, 8, 10-11 and 14-15 have been amended;
- Claims 14 and 15 are rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter;
- Claims 1-6, 8-15 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilotti et al. (6,622,012), hereinafter Bilotti et al., in view of Cawthorne et al. (5,633,626), hereinafter Cawthorne et al.
- Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bilotti et al. as modified by Cawthorne et al., in view of Deczky (4,294,682), hereinafter Deczky.
- Claims 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilotti et al. as modified by Cawthorne et al., in view of Bartingale et al. (US 2003/0048102), hereinafter Bartingale et al.
- Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bilotti et al. as modified by Cawthorne et al., in view of Sunter et al (US 5,323,011), hereinafter Sunter et al.
- Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bilotti et al. as modified by Cawthorne et al., in view of Lemke et al. (US 4,323,890), hereinafter Lemke et al.

The rejections are discussed below.

#### **Amendment to the Specification**

The Title of the Specification has been amended herein not for matters of patentability but to bring the title into compliance with the Rules and Guidelines of United States Patent and Trademark Office.

**The Rejection of Claims 14 and 15 under 35 U.S.C. 101**

Claims 14 and 15 stand rejected under 35 U.S.C. 101. In particular, the Office asserts that the claims 14 and 15 are directed to non-statutory subject matter. Claims 14 and 15 have been amended herein based on the recommendations and in agreement with the Examiner to be directed to statutory subject matter as the claims are directed to an apparatus, which is a “process, machine, manufacture, or composition of matter” as required under 35 U.S.C. 101.

**The Rejection of Claims 1-6, 8-15 and 19-20 under 35 U.S.C. 103(a)**

Claims 1-6, 8-15 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilotti et al. in view of Cawthorne et al. This rejection should be withdrawn because the combination of Bilotti et al. and Cawthorne et al. does not establish a *prima facie* case of obviousness with respect to the subject claims.

The rationale to support a conclusion that the claim would have been obvious is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed. *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). MPEP §2143.

Independent **claim 1** has been amended and now recites an apparatus comprising, *inter alia*: a detector mounted in the other of said members which responds to a proximity of and detects an intensity of interaction with said element, ***turns on a noise flag if the intensity equals or exceeds a predetermined intensity value, and turns off the noise flag if the intensity is below the predetermined intensity value.*** Claim 1 also recites a processor configured to ***determine a detection state of the detector as true or false*** and drive the inhibitor to selectively inhibit the intensity of interaction of the detector and the element based on the output of the detector and the determined detection state of the detector, wherein driving the inhibitor by: ***determining that the detection state is true and inhibiting the intensity of the interaction with the element if the noise flag is on and the intensity of interaction is cancelled by a driving signal which changes the intensity of interaction to match the driving signal; and determining that the detection state is false and not inhibiting the intensity of the interaction with the element if the noise flag is on and the intensity of interaction is unaffected by the driving signal.***

It was agreed in the telephone interview with the Examiner on May 27, 2010, that the subject matter introduced by the present amendments to the claim described above overcomes the rejections of record over the combination of Bilotti et al. and Cawthorne et al. under 35 USC 103, and that pending an updated search claim 1 appears to be allowable under 35 USC 103.

Accordingly, the rejection of claim 1 should be withdrawn.

Independent **claims 8, 10 and 11** recite elements similar to those recited in claim 1. It was also agreed in the telephone interview with the Examiner that the subject matter introduced by these amendments to claims 8, 10 and 11 overcomes the rejections of record over the combination of Bilotti et al. and Cawthorne et al. under 35 U.S.C. 103, and that pending an updated search claims 8, 10 and 11 appear allowable under 35 U.S.C. 103.

Accordingly, the rejection of claims 8, 10 and 11 should be withdrawn.

**Claims 2-4, 6, 9, 12-15 and 19-20** each depend from one of independent claims 1, 8 and 10-11 and thus incorporate each of their respective limitations. Therefore, dependent claims 2-6, 9, 12-15 and 19-20 are also believed allowable over Bilotti et al. in view of Cawthorne et al. under 35 U.S.C. 103(a) for the reasons established above with respect to claims 1, 8 and 10-11 and their rejections should be withdrawn. Other issues raised by the Examiner with respect to additional limitations claimed by each of the dependent claims 2-6, 9, 12-15 and 19-20 are moot at this time and not properly addressed now, nor conceded by the applicants.

**The Rejection of the Remaining Claims under 35 U.S.C. 103(a)**

Claims 5, 7 and 16-18 are rejected under 35 U.S.C. 103(a). These rejections should be withdrawn as the prior art of record does not establish a *prima facie* case of obviousness with respect to the subject claims as each depend from one of independent claims 1, 8 and 10-11, respectively, and thus incorporate each of their respective limitations. Therefore, dependent claims 5, 7 and 16-18 are also believed allowable over the prior art under 35 U.S.C. 103(a) and their rejections should be withdrawn. Other issues raised by the Examiner with respect to additional limitations claimed by each of the dependent claims 5, 7 and 16-18 are moot at this time and not properly addressed now, nor conceded by the Applicants.

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**Conclusion**

In view of the foregoing, it is submitted that an agreement was reached during the interview with the Examiner on May 27, 2010, that the claims distinguish patentably and non-obviously over the prior art of record. An early indication of allowability is earnestly solicited.

Respectfully submitted,

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